

Office of the Secretary of Defense

Pt. 291, App. A

that requires continued protection and qualifies as exempt from public release.

(d) *Distribution statement.* Information in a technical document that requires a distribution statement pursuant to DNA Instruction 5230.24A shall bear that statement and may be marked FOUO, as appropriate.

(e) *Termination.* The originator or other competent authority, e.g., initial denial and appellate authorities, shall terminate "For Official Use Only" markings or status when circumstances indicate that the information no longer requires protection from public disclosure. When FOUO status is terminated, all known holders shall be notified, to the extent practical. Upon notification, holders shall efface or remove the "For Official Use Only" markings, but records in file or storage need not be retrieved solely for that purpose.

(f) *Disposal.* (1) Nonrecord copies of FOUO materials may be destroyed by tearing each copy into pieces to preclude reconstructing, and placing them in regular trash containers. When local circumstances or experience indicates that this destruction method is not sufficiently protective of FOUO information, local authorities may direct other methods but must give due consideration to the additional expense balanced against the degree of sensitivity of the type of FOUO information contained in the records.

(2) Record copies of FOUO documents shall be disposed of in accordance with the disposal standards established under 44 U.S.C. chapter 33, as implemented by DNA instructions concerning records disposal.

(g) *Unauthorized disclosure.* The unauthorized disclosure of FOUO records does not constitute an unauthorized disclosure of DNA information classified for security purposes. Appropriate administrative action shall be taken, however, to fix responsibility for unauthorized disclosure whenever feasible, and appropriate disciplinary action shall be taken against those responsible. Unauthorized disclosure of FOUO information that is protected by the Privacy Act, may also result in civil and criminal sanctions against responsible persons. The DNA office that originated the FOUO information shall

be informed of its unauthorized disclosure.

APPENDIX A TO PART 291—FREEDOM OF INFORMATION ACT REQUEST (DNA FORM 524)

Suspense Item—Freedom of Information Act Request

Date _____
Information Required in PAO NLT _____
FOIA Case No. _____
To: _____
Special Instructions: _____

Please conduct a search within your organization to determine if there is information/documents responsive to the attached FOIA request.

If you recommend withholding information from the documents requested, please refer to the FOIA exemptions listed on the reverse.

If this request is for a technical proposal, please provide the name and address for the contact person at the company which was awarded the contract and the name and office symbol to the TM.

Record time spent on this request and the number of pages copied on the enclosed DD Form 2086.

If you believe other DNA offices should be involved in processing this request, please advise PAO ASAP.

If you have any questions call PAO, 57095 or 57306. Do not place this FOIA action in distribution.

Enclosures:
DNA Form 524 (28 June 90) Previous Editions Obsolete.

EXPLANATION OF EXEMPTIONS

FREEDOM OF INFORMATION ACT (5 USC 552)

(b)(1) Applies to information which is currently and properly classified pursuant to an Executive Order in the interest of national defense or foreign policy. (See Executive Order 12356, DoD Regulation 5200.1-R and DNA Instruction 5400-7C.)

(b)(2) Applies to information which pertains solely to the internal rules and practices of the Agency; this exemption has two profiles, "high" and "low." The "high" profile permits withholding of a document which, if released, would allow circumvention of an agency rule, policy, or statute, thereby impeding the agency in the conduct of its mission. The "low" profile permits

withholding if there is no public interest in the document, and it would be an administrative burden to process the request.

(b)(3) Applies to information specifically exempted by a statute establishing particular criteria for withholding. The language of the statute must clearly state that the information will not be disclosed.

(b)(4) Applies to information such as trade secrets and commercial or financial information obtained from a company on a privileged or confidential basis which, if released, would result in competitive harm to the company.

(b)(5) Applies to inter- and intra-agency memoranda which are deliberative in nature; this exemption is appropriate for internal documents which are part of the decision making process, and contain subjective evaluations, opinions and recommendations.

(b)(6) Applies to information release of which could reasonably be expected to constitute a clearly unwarranted invasion of the personal privacy of individuals; and

(b)(7) Applies to records or information compiled for law enforcement purposes that (A) could reasonably be expected to interfere with law enforcement proceedings, (B) would deprive a person of a right to a fair trial or impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of others, (D) disclose the identity of a confidential source, (E) disclose investigative techniques and procedures, or (F) could reasonably be expected to endanger the life or physical safety of any individual.

(b)(8) Permits the withholding of matters contained in, or related to, examination, operating or conditions reports prepared by, on behalf of, or for the use of, an agency responsible for the regulation and supervision of financial institutions.

(b)(9) Permits the withholding of geological information and data including maps, concerning wells.

PART 292—DEFENSE INTELLIGENCE AGENCY (DIA) FREEDOM OF INFORMATION ACT

Sec.

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APPENDIX A TO PART 292—UNIFORM AGENCY FEES FOR SEARCH AND DUPLICATION

UNDER THE FREEDOM OF INFORMATION ACT
(AS AMENDED)

AUTHORITY: 5 U.S.C. 552.

SOURCE: 57 FR 38775, Aug. 27, 1992, unless otherwise noted.

§ 292.1 Purpose.

This document implements the “Freedom of Information Act (FOIA),” 5 U.S.C., as amended, with the Defense Intelligence Agency (DIA) and outlines policy governing release of records to the public.

§ 292.2 Applicability.

This part applies to all DIA elements, and governs the public release of records of these elements.

§ 292.3 Basic policy.

(a) Upon receipt of a written request, the DIA will release to the public, records concerning its operations and activities which are rightfully public information. Generally, information, other than that exempt in § 292.6, will be provided to the public. The following policy will be followed in the conduct of this program.

(1) The provisions of the FOIA, as implemented by 32 CFR part 286 and this part, will be supported in both letter and spirit.

(2) Requested records will be withheld only when a significant and legitimate governmental purpose is served by withholding them. Records which require protection against unauthorized release in the interest of the national defense or foreign relations of the United States will not be provided.

(3) Official requests from Members of Congress, acting in their official capacity, will be governed by DoD Directive 5400.4,¹ (see DoD 5400.7-R,² paragraph 5-103); from the General Accounting Office by DoD Directive 7650.1;³ and from private parties, and officials of state or local governments by DoD 5400.7-R, paragraphs 5-101 and 102.

(4) Records will not be withheld solely because their release might result in

¹Copies may be obtained at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

²See footnote 1 to § 292.3(a)(3).

³See footnote 1 to § 292.3(a)(3).